



November 8, 2019

VIA ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs, WC Docket No. 18-89*

Dear Ms. Dortch:

This letter is submitted by NTCA–The Rural Broadband Association (“NTCA”) regarding the publicly released draft item in the above-referenced proceeding that is now being considered for a vote by the Federal Communications Commission (the “Commission”) at its November meeting.¹

NTCA supports efforts to promote national security interests while also balancing the need to avoid disruptions for consumers already receiving service through the use of certain equipment and services manufactured or provided by “covered companies.” The Commission rightly notes that elimination of equipment that poses a national security risk is important “to secure our communications networks,” but astutely observes as well that there is a corresponding need to address the impacts of such measures on “affected entities, and in particular, small, rural entities” that may previously have deployed such equipment.² NTCA therefore has supported, both in legislative contexts and before this Commission, the provision of technical and financial assistance that will enable affected providers to transition to more secure platforms through the removal and replacement of any previously deployed equipment that has now been determined to present a national security risk.

¹ See *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, FCC-CIRC 1911-01 (rel. Oct. 29, 2019) (“Draft Order and NPRM”).

² *Id.* at ¶ 112.

Accordingly, NTCA welcomes the proposals in the Draft Order and NPRM to pair any ban on the future procurement of any covered equipment or services with consideration of what steps can be taken to identify and then fund the removal and replacement of any such equipment and services already present in networks.³ At the same time, it is important that the Commission be mindful of the timing and sequencing of these paired efforts – and their consequences for current operations. Specifically, to the extent that software patches, spares, or maintenance efforts are needed to ensure existing equipment remains operational, a “prospective” ban on such patches, use of spares, or basic support and maintenance functions as proposed⁴ would effectively become a mandate for removal and replacement of all covered equipment much sooner than any financial assistance would become available for that purpose. This is different than simply suggesting that providers cannot “upgrade” existing equipment; a ban on any support or maintenance functions altogether would literally prevent operators from keeping existing service running in the event of a failure of covered equipment or natural disaster.

Of course, such timing and sequencing concerns could be mitigated, if not entirely eliminated, to the extent that financial assistance for removal and replacement were provided *at the same time* as the prospective ban goes into effect. It seems unlikely, however, that any financial assistance will be available until action can be taken on the further notice of proposed rulemaking and/or in the absence of congressional appropriations. NTCA therefore submits that, to avoid the potential for a “prospective” ban to result in service disruptions, the Commission should either: (1) defer the effective date of the “prospective” ban until financial assistance for removal and replacement is available;⁵ or (2) permit at least limited support and maintenance activities and use of spares and patches to address covered equipment failures pending the availability of financial assistance for removal and replacement. Alternatively, and at the very least, the Commission should clarify that, as long as an operator can reasonably show that it utilized resources *other than* USF support to pay for basic support and maintenance efforts and use of spares and patches, such activities will be permitted.⁶

³ *Id.* at ¶¶ 117-146.

⁴ *Id.* at ¶¶ 68-69; *contra id.* at ¶ 76 (“[B]ecause the rule is prospective in effect, it does not prohibit the use of existing services or equipment already deployed or in use.”)

⁵ Although this would permit covered equipment to remain in use by universal service fund (“USF”) recipients pending the issuance of funds for removal and replacement through further Commission or congressional action, it is worth noting that any operators that do *not* take USF support may also still be using covered equipment during this period regardless of any action the Commission takes here.

⁶ *See id.* at ¶ 66. The Commission expresses doubt in the Draft Order and NPRM that any provider could in fact make such a showing, providing the example of *installation of a new* cellular radio base station. However, the Commission should consider how it could facilitate, notwithstanding such initial skepticism, a provider’s *replacement of an existing* base station that has failed or even just to allow a field technician to perform maintenance work on a malfunctioning base station – because, otherwise, any event of network failure presents the risk of service disruption unless the provider can somehow find an interoperable component from *another* manufacturer.

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In short, NTCA supports the Commission's efforts to find a reasonable but expeditious path forward to identify, manage, and address potential national security risks in the communications supply chain. But there is a logistical need to address on a targeted basis those complications that could arise to the extent a prospective ban on use of covered equipment is implemented *before* a plan for technical and financial assistance to "rip and replace" such equipment is also finalized and adopted. NTCA believes any of the recommendations provided above could help to advance the Commission's goals and promote national security interests in the near-term while also avoiding the prospect of service disruptions otherwise.

Thank you for your consideration of this correspondence. Please contact the undersigned if you have any questions regarding these matters.

Sincerely,

/s/ Michael R. Romano

Michael R. Romano

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NTCA–The Rural Broadband Association